

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

SCRA 506 of 2016
SCRA 507 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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- 1. For orders on CMA No.3012/2016.
- 2. For hearing of main case.
- 3. For orders on CMA No.3013/2016.

28.10.2025

Mr. Muhammad Rashid Arfi, advocate for the applicant.

Per learned counsel, the impugned order determines two appeals without any due independent deliberation or consideration. He states that the issue before the court was to be decided upon appreciation of law evidence etc, however, the same has been abjured and the learned Appellate Tribunal erroneously relied on vague unrelated concepts. In such regard, the learned counsel seeks to demonstrate paragraph 11 of the impugned judgment that reads as follows:

“11. In the circumstances as explained above and in view of the provisions of Section 22 of the General Clauses Act and the direction given vide Customs General Order No.21 of 1973, the manner in which impugned order has been passed reveals haste, lack of application of mind and arbitrariness. The Sindh High Court in the case of Akhtar Husain v. Collector of Customs; C.P. No. 16 of 20003 decided on 14.04.2003 has held that orders and instructions issued in the form of General Order are binding on the officer of Customs and any deviation there from would make the proceedings suffering from procedural impropriety. Hence, the respondent did not dispose of the matter in a judicious manner.”

Learned counsel further states that even if the order under challenge was found to be perfunctory in nature, the correct approach ought to have been remand the matter for adjudication afresh, however, the same was not done and the entire proceedings were sought at naught. Learned counsel states that if the matter was not remanded then the learned Appellate Tribunal ought to have been appraised the law and facts on its own accord. However, the same was also not done. Under such circumstances, he states that the impugned order could not sustain.

The Appellate Tribunal is the last fact finding forum in the statutory hierarchy, therefore, it is incumbent upon the same to render independent deliberations and findings on each issue. The manner in which the appeals in general are to be addressed to be emphasized by the Supreme Court in judgments reported as 2019 SCMR 1626. This High Court has consistently maintained that the Appellate Tribunal is required to possess independent reasons and findings and in the absence thereof a perfunctory order could not be sustained. Reliance is placed on judgment dated 02.10.2024 in SCRA 1113 of 2023 and judgment dated 27.08.2024 in SCRA 757 of 2015. Earlier Division Bench judgment has also maintained that if the impugned order is discrepant in the manner as aforesaid even grant to remand the matter for adjudication afresh. Reliance is placed on judgment dated 10.12.2024 in ITRA 342 of 2024.

We are of the considered view that the impugned judgment could not be treated to be a speaking order prima facie devoid of relevant discussion and deliberation. It is seen that the same has been rendered without elaborating crucial issue of nature of goods having ever been determined. The reports relied upon by the department had not been referred to by the Appellate Tribunal and any discussion therein. In view hereof, the impugned judgments are hereby set aside and the matter is remanded back to the Appellate Tribunal for adjudication afresh.

A copy of this decision may also be sent under the seal of this Court and the signature of the Registrar to the learned Customs Appellate Tribunal, as required per section 196(5) of the Customs Act, 1969. Office is instructed to place copy hereof in the connected file.

Judge

Judge